

Baltimore  
Plan

ADMINISTRATIVE FILE

Baltimore Plan

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September 30, 1954

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Mr. James R. Hoffa  
Vice President  
International Brotherhood of Teamsters  
2741 Trumbull Avenue  
Detroit, Michigan

Re: The Baltimore Plan for Legal Picket-  
ing at Construction Sites

Dear Jimmy:

Enclosed is the material we discussed at the American  
Federation of Labor Convention in Los Angeles, which  
you agreed to mail to local unions affiliated with  
both the Central States and Southern Conferences of  
Teamsters.

With best wishes and kind personal regards, I am,

Fraternally yours,

Harold Thirion, Director  
National Division of Building  
Material & Construction Drivers

HT:bc  
Enc.

**The Baltimore Plan for Legal Peaceful Picketing  
at Construction Sites**

The National Labor Relations Board has now given a clean bill of health to one kind of peaceful picketing at a construction job site.

Three years ago the Supreme Court of the United States upheld the power of the Board to ban peaceful picketing on the job by the Denver Building and Construction Trades Council to secure unionization of a non-union electrical subcontractor. Ever since, building trades unions and councils have been looking for some legal means of carrying forward Labor's firm resolve to prevent fair wages, hours and working conditions from being undermined by non-union labor.

The Baltimore Building and Construction Trades Council has found the answer and has managed to make it stick before the Board, despite strenuous objections from employers. From now on, thanks to the Baltimore Council, we can be sure of at least one way by which building trades unions can avoid the crippling effects of the secondary boycott provisions of the Taft Hartley Act.

Here is the way the Baltimore Plan\* worked out. Baltimore was rapidly becoming an open shop city when, in March 1953, the Council decided to conduct an organizing campaign. The entire job was carefully planned and executed. Nothing was done until legal advice was obtained on how to engage in picketing without violating the Taft Hartley Act.

First, the Council officers avoided giving any advice or instructions as to duties or obligations to affiliated local unions or their representatives on the Council. Under no circumstances was the support or assistance of Local Unions requested. Members of the Council's affiliated locals were merely told in local union meeting that the Council was going to conduct an organizing campaign in the Baltimore area. Nothing was said on when the campaign would start.

Second, the method for engaging in picketing was detailed in advance. The Council picked construction projects where non-union employees were employed. Each picket was given careful instructions and a card entitled "Helpful Hints for Pickets" with the following guides:

1. The sole purpose of the picketing is to organize the unorganized.
2. Premises must be picketed peacefully at all times.
3. Signs furnished by the Council must be carried at all times.
4. Handbills and union authorization cards are to be given only to employees requesting them.
5. Pickets should peacefully encourage employees to join unions affiliated with the Council.

The authorization cards stated that the signatory authorized the AFL and "all affiliated organizations" to represent him. Handbills were in the form of printed leaflets containing favorable statements by various churches regarding unionism. Picket signs declared that the job was being picketed for the purpose of organization and invited employees to join their AFL craft union.

Third, the picketing was carried out in accordance with the spirit and letter of the instructions. One or two pickets at each project simply and peacefully patrolled the entrances. Inquiries were answered by stating that the Council was conducting an organizing campaign. Authorization cards were handed out only on request. At no time did the pickets attempt physically to bar the entry of employees or to accost or persuade them not to enter to work.

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\*In Re Baltimore Building and Construction Trades Council et al. Case No. 5-CC-29, June 28, 1954, 108NLRB No. 221.



The picketing had one important clear cut result: already unionized employees on the picketed projects refused to cross the picket lines even though local union officers specifically refrained from giving any advice to members.

One employer, whose iron workers voluntarily quit in response to the picket line, charged that the secondary boycott provisions of the Taft Hartley Act were being violated. A complaint was issued and a Trial Examiner of the Board found that the Act had been violated because the Iron Workers Local Union 16 failed to order the men to cross the picket line.

The Board reviewed and reversed the decision of the Trial Examiner. The picketing, it concluded, was an expression of purpose directed toward the employees of the non-union employers on the job and not toward the iron workers. There was a direct peacefully conducted labor dispute respecting these employees which, despite the literal meaning of the secondary boycott provisions of the Act, the Congress never intended to prohibit. For this reason the Board refused to call the picketing illegal "even though employees of neutral employers may of their own volition refuse to cross the picket line and thereby exert pressure on the primary employer."

The Baltimore Plan can be used effectively throughout the Country, not only by Building and Construction Trades Councils but also by local unions of the various crafts. If this plan is used by local unions, however, some basic rules must be followed. First, never ask for or receive assurances of support from other craft locals, from building trades councils, or from central bodies. Any such request or assurances would be regarded as an inducement of union workers to stop work in order to bring pressure on the primary employer in violation of the secondary boycott provisions.

Second, make sure that officers of other locals or of central bodies take no action to control local union members in their choice as to crossing the picket line.

One further word of warning. --State laws may sometimes operate even to prohibit peaceful picketing under the Baltimore Plan in particular circumstances. While these laws should not apply to activities respecting any employer whose operations affect interstate commerce, the law is by no means clear as to the area in which Federal regulation will prevail. State "right to work" laws may also operate to complicate matters. For these reasons it may be wise to seek local advice on the extent to which local laws may apply to prohibit action permitted by the Taft Hartley Act.

August 1954

ADMINISTRATIVE FILE

Baltimore Plan

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LAW OFFICES OF

WOLL, GLENN & THATCHER

GENERAL COUNSEL, AMERICAN FEDERATION OF LABOR

J. ALBERT WOLL  
JAMES A. GLENN  
HERBERT S. THATCHER  
JOHN B. FOLEY  
ROBERT E. FOLEY

August 20, 1954.

736 BOWEN BUILDING  
WASHINGTON 5, D. C.

TELEPHONE REPUBLIC 7-1717

Mr. Robert L. Graham,  
Assistant to the General President,  
International Brotherhood of Teamsters,  
Chauffeurs, Warehousemen and Helpers of America,  
100 Indiana Avenue, N.W.,  
Washington 1, D.C.

Dear Bob:

Thank you for sending over, under your letter  
of August 19th, "The Baltimore Plan for Legal Peaceful  
Picketing at Construction Sites."

The Plan is a good one and has been upheld  
by the Board in the Stover Steel Company case, decided  
June 28th by a unanimous Board. This Plan, however, and  
the procedures suggested under it are nothing more than  
what this office suggested three years ago in an article  
entitled "Important Decisions" which appeared in the  
July, 1951, issue of the American Federationist, follow-  
ing the decision of the United States Supreme Court in  
the Building Trades cases.

Sincerely yours,

*Herbert S. Thatcher*  
Herbert S. Thatcher.

FST-HH

WTC 5-1 1954  
300 for file

August 19, 1954

Mr. J. Albert Woll, General Counsel  
International Brotherhood of Teamsters,  
815-15th Street, N.W.  
Washington, D.C.

Dear Sir and Brother:

Re: The Baltimore Plan  
for legal peaceful picketing  
at construction sites.

I am forwarding for your attention a copy of the Baltimore  
Plan for legal peaceful picketing at construction sites. At  
your convenience, please give me the benefit of your advice  
on this presentation.

Fraternally,

Robert L. Graham, Assistant  
to the General President

RLG:gb  
encls

FROM THE OFFICE OF  
DAVE RECK, GENERAL PRESIDENT  
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

To Al Wael  
for legal advice



The Baltimore Plan for Legal Peaceful Picketing  
at Construction Sites

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Third, the picketing was carried out in accordance with the spirit and letter of the instructions. One or two pickets at each project simply and peacefully patrolled the entrances. Inquiries were answered by stating that the Council was conducting an organizing campaign. Authorization cards were handed out only on request. At no time did the pickets attempt physically to bar the entry of employees or to accost or persuade them not to enter or work.

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The Board reviewed and reversed the decision of the Trial Examiner. The picketing, it concluded, was an expression of purpose directed toward the employees of the non-union employers on the job and not toward the iron workers. There was a direct peacefully conducted labor dispute respecting these employees which, despite the literal meaning of the secondary boycott provisions of the Act, the Congress never intended to prohibit. For this reason the Board refused to call the picketing illegal "even though employees of neutral employers may of their own volition refuse to cross the picket line and thereby exert pressure on the primary employer."

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100 MRS E. 201

D-8363  
Baltimore, Md.

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

BALTIMORE BUILDING AND CONSTRUCTION TRADES  
COUNCIL; and LOCAL UNION 16, INTERNATIONAL  
ASSOCIATION OF BRIDGE, STRUCTURAL AND  
ORNAMENTAL IRON WORKERS UNION, AFL

and

Case No. 5-CC-29

JOHN A. PIEZONKI d/b/a STOVER STEEL SERVICE

DECISION AND ORDER

On July 31, 1953, Trial Examiner George A. Downing issued his Intermediate Report in the above-entitled proceeding, finding that the Respondents had engaged in and were engaging in certain unfair labor practices, and recommending that they cease and desist therefrom and take certain affirmative action, as set forth in the copy of the Intermediate Report attached hereto. Thereafter, the Respondents filed exceptions and supporting briefs.

The Board has reviewed the rulings made by the Trial Examiner at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Intermediate Report, the exceptions and briefs, and the entire record in the case. The Board finds merit in the exceptions and adopts the findings and conclusions of the Trial Examiner only insofar as they are consistent with the decision herein.

In March 1953, the Respondent Council embarked on a campaign to organize all unorganized employees on various building projects in the Baltimore area. As preliminary to the organizing campaign, it sought legal advice on how it might engage in picketing without violating the Taft-Hartley Act. Thereafter, members of the Council's affiliated locals were informed in membership meetings by their business representatives or by delegates to the Council that the Council was going to conduct an organizing campaign, but they were not told when the campaign would start, and they were given no directions, instructions, or advice concerning their obligations

-CC MRS E. 201



or conduct with respect thereto. On the morning of March 25, 1953, the Council placed pickets at the entrances to a number of building projects, including the Claremont and Jessups jobs involved herein. The pickets were given for guidance, a card entitled, "Helpful Hints for Pickets," which informed the pickets that their purpose was to organize the unorganized, that they were to patrol the premises peaceably and carry at all times the signs given them, that they were to hand out authorization cards and handbills to anyone who wanted them, and that they were to encourage non-union workers to join unions affiliated with the Council. The pickets were furnished, for distribution to inquirers, with cards authorizing the AFL and "all affiliated organizations" to represent the signatories, and with a printed leaflet which contained statements by various churches regarding unionism. The pickets carried signs which stated that the job was being picketed for the purpose of organization, and inviting employees to join their A.F.L. craft union. The pickets conducted themselves strictly in accordance with their instructions. They made no attempt physically to bar the entry of employees into the project, nor did they accost or attempt to persuade employees not to enter or not to work. So far as is shown by the evidence, one or two pickets at each project simply patrolled the entrances, handed out authorization cards when requested, and answered inquiries by stating that the Council was conducting an organizing campaign. The effect of the picketing was that most of the already unionized employees on the projects being picketed refused to cross the picket lines.

The Trial Examiner found that the picketing violated Section 8 (b) (4) (A) of the Act. He reasoned that, although the Respondents did not call for such action by way of instructions, pickets or picket signs, they expected that many union members would refuse to cross the picket line and it was therefore "incumbent upon them to take affirmative action to negate the inducement which the mere existence of the picket line constituted, by ordering the man back to work." We do not agree with this reasoning of the Trial Examiner. Logically applied, it would outlaw



embodied all primary picketing. Yet the legislative history of Section 8 (b) (4) (A) is clear that by this section Congress intended to make unlawful only secondary boycotts and secondary strike activities and not conduct "which was traditional and permissible in a primary action."<sup>1/</sup> The question to be decided therefore is whether the picketing followed herein was traditional primary activity or secondary activity proscribed by Section 8 (b) (4) (A).

The difficulty of differentiating the two types of activity in this case arises from the fact that the primary employers with whom the dispute exists and the neutral employers occupy the same job situs. In this situation the Board recognizes that the traditional right of a union to picket at the location of a labor dispute and the competing right of a neutral employer to be free from picketing in a controversy in which it is not directly involved cannot be absolute.<sup>2/</sup> The problem is one of balancing rights. When the picketing union by its picketing signs<sup>3/</sup> or by its conduct on the picket line<sup>4/</sup> or elsewhere<sup>5/</sup> indicates that the dispute extends beyond the primary employer, and thereby directly seeks to enlist the active participation of employees of neutral employers, the picketing union violates the secondary boycott provisions of the Act. On the other hand, if the picketing union by its signs and conduct does indicate that its disagreement is only with the primary employer, its conduct is primary and lawful even though employees of neutral employers may of their own volition refuse to cross the picket line and thereby exert pressure on the primary employer. These secondary effects of legitimate primary picketing must be

<sup>1/</sup> N.L.R.B. v. Denver Building and Construction Trades Council, 311 U. S. 675, 687; N.L.R.B. v. International Rice Milling Company, 311 U. S. 665; Sailors' Union of the Pacific, AFL (Moore Dry Dock Company), 92 NLRB 517, and cases cited therein.

<sup>2/</sup> Local Union No. 55, etc. (Professional and Business Men's Life Insurance Company), 106 NLRB No. 29; Chauffeurs, Teamsters, Warehousemen, etc., (Hoosier Petroleum Company, Inc.) 106 NLRB No. 111, enforced 212 F. 2d 216 (C.A. 7).

<sup>3/</sup> Local Union No. 55, etc. (Professional and Business Men's Life Insurance Company), *supra*. Member Birdock dissented from finding the violation therein.

<sup>4/</sup> Chauffeurs, Teamsters, Warehousemen, etc. (Hoosier Petroleum Company), *supra*.

<sup>5/</sup> Local Union No. 55, etc. (Professional and Business Men's Life Insurance Company), *supra*.

regarded as incidental in the light of the legislative history of the Taft-Hartley Act.

In the present case, the picket signs indicated clearly that the picketing was for the purpose of persuading the nonunion men on the project to join the Union.<sup>1/</sup> The conduct of the pickets was consistent with the legends on the signs they carried. They made no attempt to persuade employees not to go to work, but handed out authorization cards when asked for the same and responded to inquiries by stating that the Council was engaged in an organizing campaign.<sup>2/</sup> There is no evidence that the Respondents were engaging in secondary picketing under the guise of conducting an organizational campaign. There is also lacking any substantial evidence that away from the picket line the Respondents instructed or attempted to persuade the unionized employees of secondary employers to respect the picket line.<sup>3/</sup> In these circumstances, we hold, contrary to the Trial Examiner, that in their picketing the Respondents were engaged in lawful primary activity and did not violate Section 8 (b) (4) (A) of the Act. We shall therefore dismiss the complaint.

## ORDER

IT IS HEREBY ORDERED that the complaint filed herein be, and it hereby is, dismissed.

Dated, Washington, D. C.

JUN 28 1954

Guy Farmer,	Chairman
Abas Murdock,	Member
Iver H. Peterson,	Member
Albert G. Benson,	Member

NATIONAL LABOR RELATIONS BOARD

(SEAL)

- 4/ Seafarers' Union of the Pacific (Navy Dock Company), supra.  
 7/ Compare Local Union No. 55, etc. (Professional and Business Men's Life Insurance Company), supra.  
 8/ Compare Chauffeurs, Teamsters, Warehousemen, etc. (Hoosier Petroleum Company), supra.  
 9/ Compare Local Union No. 55, etc. (Professional and Business Men's Life Insurance Company), supra.